Reg Cent

April 12, 1979

Elizabeth S. Bowers, Esq., Chairman
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Mr. Glenn O. Bright
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. William E. Martin
Senior Ecologist
Battelle Memorial Institute
Columbus, Ohio 43201

In the Matter of
Pacific Gas and Electric Company
(Diablo Canyon Nuclear Power Plant, Units Nos. 1 and 2)
Docket Nos. 50-275 O.L. and 50-323 O.L.

Dear Members of the Board:

On April 10, 1979 an inadvertent error was committed in improperly designating the Staff's Proposed Findings "Initial Decision". The words Initial Decision should be changed on both the cover page and first page to read Staff's Proposed Findings and Conclusions of Law. Enclosed are copies of those two pages which you may substitute.

Sincerely,

James R. Tourtellotte
Assistant Chief Hearing Counsel

Enclosures

cc (w/ encl):
Philip A. Crane, Jr., Esq.
Mrs. Elizabeth Apfelberg
Mrs. Raye Fleming
Mr. Federick Eissler
Mrs. Sandra A. Silver
Mr. Gordon Silver
Richard B. Hubbard
Paul C. Valentine, Esq.
Yale I. Jones, Esq.
John R. Phillips, Esq.
David F. Fleischaker, Esq.
Arthur C. Gehr, Esq.
Janice E. Kerr
James O. Schuyler
Bruce Norton

John Marrs
Atomic Safety & Licensing Board Panel
Atomic Safety & Licensing Appeal Panel
Docketing and Service Section

7905100370

OFFICE						
SURNAME						
DATE						

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket Nos. 50-275 O.L.
	)	50-323 O.L.
(Diablo Canyon Nuclear Power Plant	)	
Units Nos. 1 and 2)	)	

NRC STAFF'S PROPOSED FINDINGS AND CONCLUSIONS OF LAW

James R. Tourtellotte
Assistant Chief Hearing Counsel

Marc R. Staenberg
Counsel for NRC Staff

Edward G. Ketchen
Counsel for NRC Staff

April 10, 1979

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket Nos. 50-275 O.L.
	)	50-323 O.L.
(Diablo Canyon Nuclear Power Plant	)	
Units Nos. 1 and 2)	)	

NRC STAFF'S PROPOSED FINDINGS AND CONCLUSIONS OF LAW

I. Introduction

This Initial Decision considers the application by the Pacific Gas and Electric Company (the Applicant or PG&E) for facility operating licenses to authorize the operation of the Diablo Canyon Nuclear Power Plant, Units 1 and 2 (the facility). The facility consists of two pressurized water nuclear reactors located on Applicant's site in San Luis Obispo County, California.

The United States Atomic Energy Commission[1/] issued on October 10, 1973, a "Notice of Receipt of Application for Facility Operating Licenses; Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing."

1/ In accordance with the Energy Reorganization Act of 1974, or 88 Stat 1233, the Atomic Energy Commission has been abolished and its regulatory responsibility have been assumed by the Nuclear Regulatory Commission. All references in this decision to the "Commission" shall, unless otherwise indicated, refer to the United States Nuclear Regulatory Commission.

4/16.

Docket No. 50-275, 323 OL

April 2, 1979

Nuclear Regulatory Commission:

I am writing this letter to voice strong opposition to allowing the Diablo Canyon plant to begin operation.

It seems inconceivable to me that you would place economic gain by large power companies above the health and welfare of the public.

I strongly urge your commission to stop Diablo Canyon and make the lives of millions of people safer!

Sincerely,

Steven Litchfield
PO Box 310
Occidental, Ca. 95465

THOMAS H. BATES
MEMBER OF THE ASSEMBLY
TWELFTH DISTRICT

CHAIRMAN
SUBCOMMITTEE ON MENTAL HEALTH AND
DEVELOPMENTAL DISABILITIES

April 5, 1979

Mr. Joseph Hendrie
Chairman
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Chairman Hendrie:

The recent events at the Three-Mile Island Nuclear Plant in Harrisburg, Pennsylvania, have cast serious doubts about the validity of safety procedures and safeguards at nuclear plants. The public has, in the past, been given assurances by utility companies, the nuclear industry, and the Nuclear Regulatory Commission that the problems that occurred at Harrisburg were highly unlikely, if not impossible. In addition, the recent repudiation of the Rasmussen Report with regard to the probabilities of nuclear accidents also calls into question the basis on which previous decisions of the nuclear industry have been made. The public is at present greatly alarmed about the potential consequences of serious nuclear accidents and many people, including members of this Legislature, are re-examining their attitudes about nuclear power.

This situation casts new light on the current controversy with regard to the licensing of the Diablo Canyon nuclear reactor. There have been many serious questions raised with regard to plant safety, particularly concerning the seismic hazards at the plant. We have heard conflicting reports with regard to plant design and safety assurances and conflicting reports regarding the manner in which the Nuclear Regulatory Commission arrived at its decision to approve the plant. A plant which is located 2-1/2 miles from an earthquake fault capable of a shock

of 7.5 on the Richter scale must be absolutely and conclusively safe before it begins operation. Attempts during the process of approval to underplay the seriousness of the fault casts doubt on the assurances we have heard so far with regard to plant safety.

In light of the above, we, the undersigned members of the California Legislature, believe that the Nuclear Regulatory Commission should postpone the granting of a license to operate the Diablo Canyon Nuclear Plant. We believe that there are enough serious questions about the safety of this plant which, taken with the current situation, warrant a delay in the licensing until such time as the public receives additional strict assurances about the safety of the plant.

Sincerely,

THOMAS H. BATES
Member of the Assembly

LAWRENCE KAPILOFF
Member of the Assembly

MIKE GAGE
Member of the Assembly

ART AGNOS
Member of the Assembly

HOWARD L. BERMAN
Member of the Assembly

WILLIE BROWN, Jr.

ART TORRES
Member of the Assembly

ELIHU M. HARRIS
Member of the Assembly

DOUGLAS H. BOSCO
Member of the Assembly

TERRY GOGGIN
Member of the Assembly

RICHARD ALATORRE
Member of the Assembly

GWEN MOORE
Member of the Assembly

SALLY TANNER

HERSCHEL ROSENTHAL
Member of the Assembly

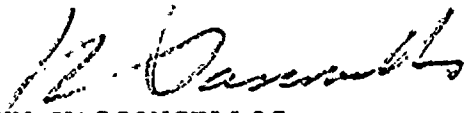
RICHARD HAYDEN
Member of the Assembly

TERESA P. HUGHES
Member of the Assembly

MAXINE WATERS
Member of the Assembly

JIM COSTA
Member of the Assembly

LEONA EGELAND
Member of the Assembly



JOHN VASCONCELLOS
Member of the Assembly

2470 Rayburn Office Building
Washington, D.C. 20515
(202) 225-2611

District Offices:
Bismarck, North Dakota 58501
(701) 253-4648
Fargo, North Dakota 58102
(701) 232-3030
Grand Forks, North Dakota 58201
(701) 775-9601
Minot, North Dakota 58701
(701) 852-2510

Congress of the United States
House of Representatives
Washington, D.C.

MARK ANDREWS
North Dakota

Committee on Appropriations

Subcommittees:
Agriculture and Related Agencies
State, Justice, Commerce and Judiciary

DOCKET NUMBER
PROJ. & CONT. NO. 50-275 & 323 OL

March 23, 1979

Department of Energy
Congressional Liaison
Washington, D.C. 20461

Dear Sirs:

Please find enclosed a copy of a letter from Susan D. Lenaburg, a constituent of mine, dealing with the construction of two nuclear power plants in Diablo Canyon, which is an extremely earthquake prone area of California.

I would appreciate any information you could provide me with concerning this matter.

Thank you for your assistance.

Warm regards.

Sincerely,

MARK ANDREWS
Congressman for North Dakota
MA/rg

March 13, 1979

Hon. Mark Andrews
3 1 Rosser
Bismarck, North Dakota 58501

Dear Mr. Andrews:

There is something taking place in Southern California that I feel you should be aware of, if you are not already.

I realize that you are a Representative from North Dakota, but this situation concerns not only us, but the rest of the United States.

I am referring to the construction of two nuclear power plants in Diablo Canyon, an area halfway between San Francisco and Los Angeles, an area of the "Pacific Belt" where 95 out of 100 earthquakes occur.

Pacific Gas and Electric, the company building the plants, claim that these structures could withstand a shock of 6.7 on the Richter scale. However, it was discovered that there is an active fault, Hosgri, only 2½ miles offshore. Geologists believe that this fault is capable of causing a quake that would be larger than the nuclear power plants could withstand.

A fractured nuclear plant, caused by an earthquake, would create an incredible steam explosion that would spread radioactivity in a wide path across California. I think that we are both aware that radiation causes death or lasting injury.

Our desperate plight is apparent, Mr. Andrews. I hope that you will use your influence with your fellow Representatives and the United States Senators in Congress. I certainly would like to see my graduation from high school in 1982.

I will be waiting for your reply.

Sincerely yours,

Susan D. Lenaburg
V.C.H.S. Freshman
Valley City, North Dakota 58072

4-2-79

DOCKET NUMBER
PROD. & UTIL. FAC. 50-323 OL

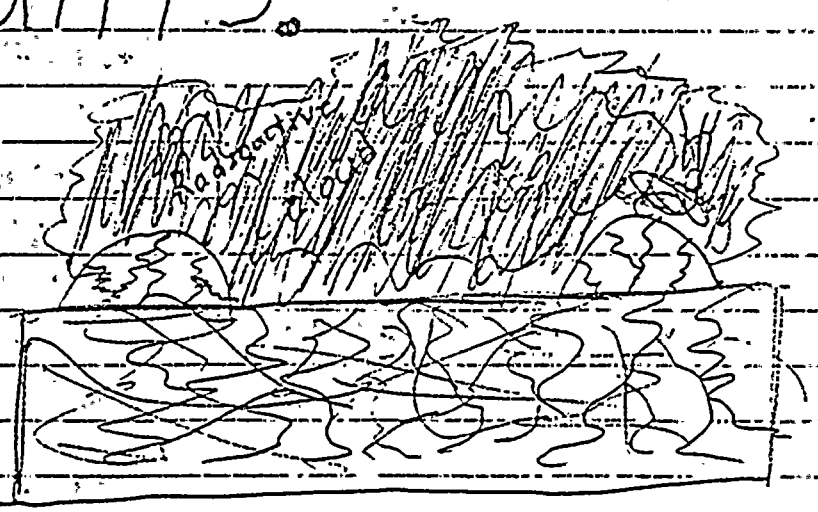
Dear M.R.S. Bowers

((Stop Diablo Canyon Nuclear plant))

I For one am speaking up now
I saw "The China Syndrome" It mite happen at
Diablo Canyon.

Mike Peters
Age, 16

STOP Nuclear POWER Plants.



After EARTHQUAKE

DOCKET NUMBER
PROD. & UTIL. FAC. 50-275, 323 OL

Dear Sir or Madam,

I would like to express my opposition to the opening of the nuclear power plant now under construction in Diablo Canyon. How can the public safety be guarenteed when the plant is located next to an active earthquake fault? And how can the extremely dangerous waste products be disposed of safely?

Since your agency is responsible for these nuclear facilities, I would appreciate an answer to these questions.

Thank you

Richard Silbice

316 Encino Ln, Ventura Ca 93001

March 31, 1979

Dear Sirs:

Please stop the construction of the Diablo Canyon Power Plant.

We feel it may be dangerous ours and our future children's health.

Jon + Paula Reynolds
1201 S. Gilbert #7
Fullerton, CA 92633

501 E Locust
Lompoc Ca 93436
4-2-79

Federal Nuclear Regulatory Commission
1990 North California Blvd.
Suite 202
Walnut Creek, Ca 94596

Dear Sirs:

I write this letter to express my personal heartfelt plea that the Diablo Canyon Nuclear Power Plant project be halted along with all other nuclear power development in the state.

Very concerned,
Alec Webster

3 April 1979

Director, NRC

Dear Sir:

I am concerned with the possible licensing of the Diablo Canyon Nuclear Power plant. Time and time again it has been shown and proven that Nuclear power plants are unsafe and uneconomical. The Diablo Canyon plant, because of its location, is inviting catastrophe.

Radiation can't be undone. Please help stop the plant before it has a chance to harm us all.

Conservation is a far more rational solution to our energy problems.

Thank you for listening.

Sincerely yours,

David J. Kamerer

DAVID J. KAMERER
118 SUNNYSIDE AVE
SANTA CRUZ, CALIF
95062.

To: Federal Nuclear Regulatory Commission,

Although I am not a resident of California, I feel compelled to express my dire concerns involving the operation of the Diablo Canyon Nuclear Power Plant in San Luis Obispo.

It is evident that if the Hosgri fault had been detected prior to the construction of the plant the reactors would have never been built. Now, the Hosgri fault is well documented as a large, active earthquake fault and does pose an undue risk to the public, being only 2½ miles offshore from the two nuclear reactors.

In the past you have taken a very responsible stand on the proliferation of nuclear technology. I sincerely urge you to use your executive powers in the intervention of Diablo Canyon, if it is granted an operating license. The people of California, specifically the 50,000 residents living within 12 miles of the nuclear reactors, have a lot more to lose -- in human life, if there is an earthquake on the Hosgri fault, than does Pacific Gas and Electric Co., by not being allowed to operate the plant.

Once again, we in our technologically sacred society, are faced with the decision of choosing the safety of people or the risks and profits of a large private corporation such as, Pacific Gas and Electric Co. Unfortunately the answer to this question is not as obvious as a humanist might hope. Please chose LIFE -- INTERVENE AT DIABLO CANYON and maintain our faith in you and our government of the people -- for the people -- for the people.

Sincerely in Peace,

Kevin J. McCarthy
[redacted] St.
Boston, Mass

Write: Federal Regulatory Commission
1990 North California Blvd. Suite 202
Walnut Creek, California 94596

To: Federal Nuclear Regulatory Commission,

Although I am not a resident of California, I feel compelled to express my dire concerns involving the operation of the Diablo Canyon Nuclear Power Plant in San Luis Obispo.

It is evident that if the Hosgri fault had been detected prior to the construction of the plant the reactors would have never been built. Now, the Hosgri fault is well documented as a large, active earthquake fault and does pose an undue risk to the public, being only 2½ miles offshore from the two nuclear reactors.

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Once again, we in our technologically sacred society, are faced with the decision of choosing the safety of people or the risks and profits of a large private corporation such as, Pacific Gas and Electric Co. Unfortunately the answer to this question is not as obvious as a humanist might hope. Please chose LIFE -- INTERVENE AT DIABLO CANYON and maintain our faith in you and our government of the people -- for the people -- for the people.

Sincerely in Peace,

Josephine Cardinale

Write: Federal Regulatory Commission
1990 North California Blvd. Suite 202
Walnut Creek, California 94596

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket No.(s) 50-275
	)	50-323
(Diablo Canyon Nuclear Power	)	
Plant, Units 1 and 2)	)	
	)	
	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this
16th day of April 1979.

Peggy T. Lawing
Office of the Secretary of the Commission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket No.(s) 50-275
	)	50-323
(Diablo Canyon, Units 1 and 2)	)	

SERVICE LIST

Elizabeth S. Bowers, Esq., Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Glenn O. Bright
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. William E. Martin
Senior Ecologist
Battelle Memorial Institute
Columbus, Ohio 43201

Counsel for NRC Staff
Office of the Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Philip A. Crane, Jr., Esq.
Pacific Gas and Electric Company
77 Beale Street - Room 3127
San Francisco, California 94106

Mrs. Elizabeth Apfelberg
1415 Cozadero
San Luis Obispo, California 93401

Janice E. Kerr, Esq.
California Public Utilities Commission
5246 State Building
San Francisco, California 94102

Mrs. Raye Fleming
1920 Mattie Road
Shell Beach, California 93440

Bruce Norton, Esq.
3216 North Third Street, Suite 202
Phoenix, Arizona 85012

Mr. Frederick Eissler
Scenic Shoreline Preservation
Conference, Inc.
4623 More Mesa Drive
Santa Barbara, California 93105

Mrs. Sandra A. Silver
1760 Alisal Street
San Luis Obispo, California 93401

Mr. Gordon A. Silver
1760 Alisal Street
San Luis Obispo, California 93401

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San Francisco, California 94102

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Center for Law in the Public Interest
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Los Angeles, California 90067

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1025 - 15th Street, N.W.
Washington, D.C. 20005

Arthur C. Gehr, Esq.
Snell and Wilmer
3100 Valley Center
Phoenix, Arizona 85073

Mr. James O. Schuyler
Nuclear Projects Engineer
Pacific Gas and Electric Company
77 Beale Street
San Francisco, California 94106

FOR INFORMATION

Mr. Carl Neiburger
San Luis Obispo Telegram-Tribune
P. O. Box 112
San Luis Obispo, California 93406

Mr. James Hanchett
Public Affairs Officer, Region V
U. S. Nuclear Regulatory Commission
1990 North California Boulevard, Suite 2
Walnut Creek, California 94596

Richard S. Salzman, Esq., Chairman
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. W. Reed Johnson
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Alan S. Rosenthal, Esq.
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

CF

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

April 12, 1979

Elizabeth S. Bowers, Esq., Chairman
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Mr. Glenn O. Bright
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. William E. Martin
Senior Ecologist
Battelle Memorial Institute
Columbus, Ohio 43201

In the Matter of
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(Diablo Canyon Nuclear Power Plant, Units Nos. 1 and 2)
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Dear Members of the Board:

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Sincerely,

James R. Tourtellotte
Assistant Chief Hearing Counsel

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Mr. James O. Schuyler
Bruce Norton

John Marrs
Atomic Safety & Licensing Board Panel
Atomic Safety & Licensing Appeal Panel
Docketing and Service Section

7905100370

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
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PACIFIC GAS AND ELECTRIC COMPANY	)	Docket Nos. 50-275 O.L.
	)	50-323 O.L.
(Diablo Canyon Nuclear Power Plant	)	
Units Nos. 1 and 2)	)	

NRC STAFF'S PROPOSED FINDINGS AND CONCLUSIONS OF LAW

James R. Tourtellotte
Assistant Chief Hearing Counsel

Marc R. Staenberg
Counsel for NRC Staff

Edward G. Ketchen
Counsel for NRC Staff

April 10, 1979

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
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PACIFIC GAS AND ELECTRIC COMPANY	)	Docket Nos. 50-275 O.L.
	)	50-323 O.L.
(Diablo Canyon Nuclear Power Plant	)	
Units Nos. 1 and 2)	)	

NRC STAFF'S PROPOSED FINDINGS
AND CONCLUSIONS OF LAW

I.
Introduction

This Initial Decision considers the application by the Pacific Gas and Electric Company (the Applicant or PG&E) for facility operating licenses to authorize the operation of the Diablo Canyon Nuclear Power Plant, Units 1 and 2 (the facility). The facility consists of two pressurized water nuclear reactors located on Applicant's site in San Luis Obispo County, California.

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before The Commission

4/12/79

In the Matter of:	)	
	)	
PACIFIC GAS & ELECTRIC COMPANY	)	Docket Nos. 50-275 OL
(Diablo Canyon Nuclear Power	)	50-323 OL
Plant, Units 1 & 2)	)	

JOINT INTERVENORS' REQUEST
THAT THE COMMISSION WITHHOLD ISSUANCE
OF AN OPERATING LICENSE FOR THE DCNPP

I.

The Joint Intervenors, SCENIC SHORELINE PRESERVATION CONFERENCE, INC., SAN LUIS OBISPO MOTHERS FOR PEACE, SANDRA SILVER, ECOLOGY ACTION CLUB, and JOHN J. FORSTER, request that the Commission, in exercise of its general supervisory powers over all Commission activities, withhold issuance of a license to operate the Diablo Canyon Nuclear Power Plant (DCNPP), pending a determination as to whether the facility should be modified in view of the information obtained from the analysis of the accident at Three Mile Island (TMI). Because we believe the Commission is best qualified to address the policy considerations raised in this motion, we raise it directly with the Commission rather than with the Licensing Board or the Appeal Board. 1/

1/ Should the Commission grant this request, we expect that first, the Applicant would document proposed modifications in an amendment to the FSAR; second, the Staff would review the proposed modifications in a supplement to the SER; and third, parties might initiate hearings on the modifications by submitting legally sufficient contentions to the Licensing Board.

II.

The Commission is currently investigating the recent accident at the TMI Nuclear Power Plant. That reactor, like the one at Diablo Canyon, is a pressurized water reactor. The results from these ongoing investigations have not been made public. However, reports in the press indicate that the Advisory Committee on Reactor Safeguards (ACRS) has written the Commission regarding problems encountered at TMI that may apply to all pressurized water reactors. Apparently, two identified problems are (1) the failure of pressure gauges to advise reactor operators of the water level in the reactor vessel, and (2) the absence of any mechanism for automatically venting gasses that may collect at the top of the reactor vessel. In addition, statements by NRC officials indicate that in-containment instruments have failed in the post-accident environment. Further analysis may uncover other safety problems generic to pressurized water reactors and, therefore, relevant to the DCNPP.

Permitting DCNPP to go critical may preclude modifications to that facility, indicated from TMI analysis and, in any event, would likely make such modifications more expensive and dangerous to workers engaged in modifying the facility.

Public safety is the first, last, and permanent question in any decision on the issuance of a construction permit or a license to operate a nuclear facility. Power Reactor Co.

v. Electricians, 367 U.S. 346, 402 (1961). That consideration, we submit, requires the Commission to withhold issuance of a license to operate the DCNPP until it is determined whether, and, if so, to what extent the DCNPP should be modified. 2/

Respectfully submitted,

David S. Fleischaker

David S. Fleischaker, Esq.
1025 Fifteenth Street, N.W.
Suite 602
Washington, D.C. 20005
(202) 638-6070

John R. Phillips, Esq.
Steven Kristovich, Esq.
CENTER FOR LAW IN THE PUBLIC INTEREST
10203 Santa Monica Boulevard
Los Angeles, California 90067
(213) 879-5588

Attorneys For Joint Intervenors
SCENIC SHORLINE PRESERVATION
CONFERENCE, INC.
SAN LUIS OBISPO MOTHERS FOR PEACE
ECOLOGY ACTION CLUB
SANDRA A. SILVER
JOHN J. FORSTER

April 12, 1979

2/ We would like to stress that we are not suggesting that the ASLB stay issuance of a partial initial decision on the seismic issues. To the contrary, we believe that such a decision should be issued as expeditiously as possible. The record is complete in that complex matter, and it makes no sense to stall the Licensing Board's decision and appellate review of that decision.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:	)	
	)	
PACIFIC GAS & ELECTRIC COMPANY	)	Docket Nos. 50-275 OL
(Diablo Canyon Nuclear Power	)	50-323 OL
Plant, Units 1 & 2)	)	

CERTIFICATE OF SERVICE

I hereby certify that I have this 12th day of April, 1979, served copies of the foregoing JOINT INTERVENORS' REQUEST THAT THE COMMISSION WITHHOLD ISSUANCE OF AN OPERATING LICENSE FOR THE DCNPP upon all of the parties listed below either by depositing copies thereof in the U.S. Mails, first class, postage prepaid, or by hand delivery (*).

Dr. Joseph Hendrie, Chairman (*)
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
11th Floor
Washington, D.C. 20555

Victor Gilinsky, Commissioner (*)
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
11th Floor
Washington, D.C. 20555

Richard T. Kennedy, Commissioner (*)
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
11th Floor
Washington, D.C. 20555

Peter A. Bradford, Commissioner (*)
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
11th Floor
Washington, D.C. 20555

John F. Ahearne, Commissioner (*)
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
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Alan Rosenthal, Chairman (*)
Atomic Safety & Licensing
Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

W. Reed Johnson, Member (*)
Atomic Safety & Licensing
Appeal Board
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Richard S. Salzman, Member (*)
Atomic Safety & Licensing
Appeal Board
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Elizabeth S. Bowers, Esq., (*)
Chairman
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Licensing Board
U.S. Nuclear Regulatory
Commission
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Washington, D.C. 20555

Mr. Glenn O. Bright (*)
Atomic Safety &
Licensing Board
U.S. Nuclear Regulatory
Commission
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Docket & Service Section
Office of the Secretary
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. William E. Martin
Battelle Memorial Institute
Columbus, Ohio 43201

James R. Tourtellotte, Esq. (*)
L. Dow Davis, Esq.
Lawrence Brenner, Esq.
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Director - BETH 042
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Washington, D.C. 20555

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1760 Alisal Street
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David S. Fleischaker

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Lawrence Q. Garcia, Esq.
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77 BEALE STREET, 31ST FLOOR • SAN FRANCISCO, CALIFORNIA 94106 • (415) 781-4211

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IVOR E. SAMSON
SUE ANN LEVIN SCHIFF
JACK W. SHUCK
SHIRLEY A. WOO
ATTORNEYS

April 11, 1979

4/11

Elizabeth S. Bowers, Esq.
Chairman
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Re: Docket No. ~~50-275-OL~~
Docket No. 50-323-OL
Diablo Canyon Units 1 & 2

Dear Mrs. Bowers:

At line 10 on page 32 of our rebuttal to the Joint Intervenors' Proposed Findings of Fact reference is made to the Board's Order of May 25, 1977. Reference should also have been made to the Board's Order dated August 3, 1978, which is referred to on page 8 of the Joint Intervenors' Findings, and we ask that our rebuttal be amended accordingly.

Very truly yours,

Philip A. Crane, Jr.

CC: Service List

DOCKET NUMBER
PROD. & UTIL. FAC. 50-275, 323 OL

4/10

PEOPLE'S RIGHT TO PETITION FOR REDRESS
USA 10¢

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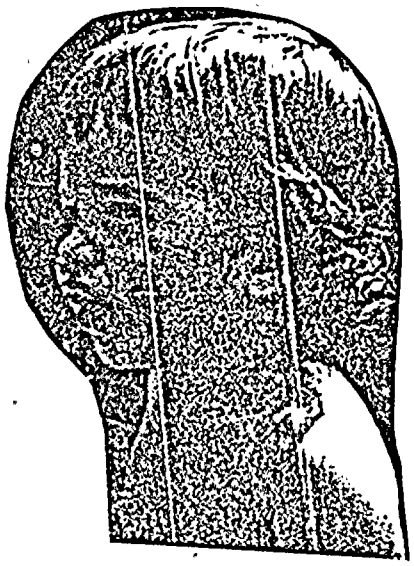
INSCRIPTION & ENDORSEMENT

Director
Nuclear Regulatory Commission
California Blvd.
Walnut Creek, Ca. 94596

DOCKETED
USNRC
APR 10 1979
Office of the Secretary
Docketing & Service
Section

I forbid you to risk
the life of my little
brother + my family
by opening Diablo Canyon.
You must shut down
all nuclear power plants.



Sally Margolis
323 McCormick Ave.
Capitola, Ca. 95010

Acknowledged by card. 4/10

D. Rand
Chico, CA

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John Hancock Patriot

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to: NRC
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Walnut Creek, CA.

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Rockefeller Center

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ENFORCEMENT

Acknowledged by card: 4/10

DIRECTOR, NRC
CALIFORNIA BLVD
WALNUT CREEK, CA 94596

Dear Director— 3-30-79

As a concerned citizen, I am amazed at the disregard for human safety and the impudent non-insightful disrespect for the powers of nature all inherent in the manufacture & use of nuclear power plants.

Please do not license PG&E's DIABLO CYN's facility & please close the RANCHO SECO plant.

Kenneth R Margolis
323 McCormick
Capitola, Ca 95010

MRS. MRS. R.N. KARBERLINE
5011 E. HARVEY
FRESNO, CALIF.
93727

29 MAR 1979

FRESNO, CA
29 MAR 1979

DOCKETED USNRC
APR 5 1979

NUCLEAR REGULATORY COM.
1990 N. CALIF. BL.
WALNUT CREEK, CALIF.
947--

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APR 2 1979
REGION V
MANAGEMENT & ADMINISTRATION

Acknowledged by card. 4/10

USPS 1978

COMMISSIONER,
PLEASE HELP US! NUCLEAR ENERGY THREATENS OUR LIVES & SCARES US TO DEATH. WE HAVE A NOTTE IN MORRO BAY & DIABLO CANYON IS A DISASTER. THE CITIZENS BACK EAST ARE ALREADY SUFFERING & I'M CONCERNED FOR THEM. MY BROTHER & SISTER CITIZENS IN THIS COUNTRY. WHO CAN WE GO TO? WHO WILL HELP US? HOW CAN WE SPEAK AS LOUD AS P.G.&E.? WILL YOU OUR GOVERNMENT OFFICIALS STEP UP & STEP FORWARD (& MAYBE STEP ON POWER CO. TOES) TO PROTECT THE PEOPLE & THE LAND. I CAN'T AFFORD TO PICKET & MARCH & GO TO JAIL. I HAVE A FAMILY. SHOULD I HAVE TO DO THAT TO STOP BIG CO.S FROM KILLING ME OR SOMEONE ELSE. OCEAN LIFE IS SILENT — BUT IT IS CERTAIN TO DIE.
THINK YOU [illegible]

To The Federal Nuclear
Regulatory Commission,

I am a voting member of the state of California. I want to make my views known on the subject of The Diablo Canyon Nuclear Plant.

I am totally opposed to the opening of the Diablo Canyon Nuclear Plant.

First of all, there is presently no safe way of storing nuclear waste. Secondly the plant is located only 2 1/2 miles from the Hosgri fault. The Diablo Canyon Nuclear Plant was to withstand a maximum schock of 6.7. According to the geologic study by the U.S. Geologic ~~Sey~~ Survey, the Hosgri Fault could give a schock of up to and 4/10

perhaps beyond 7.5. WHAT THEN?!
You may say thats a chance in a million, but you also said the accident at Three Mile Island would be a chance in a million.

Please STOP the opening of the Diablo Canyon Nuclear Plant. Please stop the construction at San Onofre.

Thank you for listening

Barbara Wyler
2708 The Strand
Manhatten Beach
California,
90266

To: Federal Nuclear Regulatory Commission,

Although I am not a resident of California, I feel compelled to express my dire concerns involving the operation of the Diablo Canyon Nuclear Power Plant in San Luis Obispo.

It is evident that if the Hosgri fault had been detected prior to the construction of the plant the reactors would have never been built. Now, the Hosgri fault is well documented as a large, active earthquake fault and does pose an undue risk to the public, being only 2½ miles offshore from the two nuclear reactors.

In the past you have taken a very responsible stand on the proliferation of nuclear technology. I sincerely urge you to use your executive powers in the intervention of Diablo Canyon, if it is granted an operating license. The people of California, specifically the 50,000 residents living within 12 miles of the nuclear reactors, have a lot more to lose -- in human life, if there is an earthquake on the Hosgri fault, than does Pacific Gas and Electric Co., by not being allowed to operate the plant.

Once again, we in our technologically sacred society, are faced with the decision of choosing the safety of people or the risks and profits of a large private corporation such as, Pacific Gas and Electric Co. Unfortunately the answer to this question is not as obvious as a humanist might hope. Please chose LIFE -- INTERVENE AT DIABLO CANYON and maintain our faith in you and our government of the people -- for the people -- for the people.

Acknowledged by card. 4/10

Sincerely in Peace,

Holly Almgren
Christopher Walters
Laurie Whipkey

Write: Federal Regulatory Commission
1990 North California Blvd. Suite 202
Walnut Creek, California 94596

2734 Westwood Blvd.
Los Angeles, CA
April 2, 1979

Federal Nuclear Regulatory
Commission
1990 North California Blvd.
Suite 202
Walnut Creek, CA 94596

RE: Diablo Canyon Power Plant

Gentlemen:

I strongly oppose the anticipated operation of the Diablo Canyon Power Plant. I understand that this plant stands dangerously close to a major fault. Experts' reassurance of the "foolproof" safety measures inherent in the plant's control system no longer pacifies me. In view of recent calamities at the Three Mile Island nuclear power plant, the Alaska Pipeline's pump stations, etc., human error still prevails over engineering genius. Clearly, nuclear fallout can never be an affordable mistake.

As a taxpayer I am willing to suffer the costs of construction of this plant. The threat that this situation imposes on the safety of Southern California's citizens undermines any economic or political priority.

Sincerely yours,

Marie A. Dempsey

Marie A. Dempsey

Acknowledged by card 4/10

CONSERVE WI...

~~NRC~~

2 APR 79

I WISH TO MAKE MY VIEWS KNOWN ON THE MATTER OF ALL NUCLEAR POWER PLANTS. I'VE READ AND STUDIED A GREAT DEAL OF MATERIAL ON THE PLANTS, AND I BELIEVE FIRST, NO NEW PLANTS SHOULD BE BUILT PERIOD.

SECOND, PLANTS NOW IN OPERATION SHOULD BE SHUT DOWN TOTALLY.

MONEY WHICH WOULD HAVE BEEN SPENT ON NUCLEAR POWER PLANTS AND RESEARCH SHOULD BE USED TO DEVELOP SOLAR POWER.

IT IS OF GREAT CONCERN TO ME THAT THE OPENING OF THE DIABLO CANYON POWER PLANT IS AT HAND. THIS MUST NOT HAPPEN! PLEASE, KNOW THAT THERE ARE THOUSANDS OF INFORMED CITIZENS OUT HERE WHO ARE AGAINST NUCLEAR REACTIONS. DON'T LET THE DIABLO CANYON PLANT OPEN. EMPHATICALLY!

STARKEY
P.O.Box 995 Los Alamitos, Ca. 90720

Acknowledged by card. 4/10

DOC USN 1 0 13 Operation Center

STOP DIABLO!

Governor Edmund G. Brown
State Capitol
Sacramento 95814

_____1979

Dear Governor Brown:

The greatest single danger to the health and safety of Californians is the imminent opening of the Diablo Canyon nuclear power plant. Your own state commissions have shown that any nuclear plant presents extreme hazards, because no feasible, long-term solution has been developed to safely store deadly, radioactive nuclear wastes. Your own energy advisor, Wilson Clark, has stated that California's earthquake-prone geological condition makes nuclear plants in California an unacceptable risk.

The Diablo Canyon plant is very near the active Hosgri fault. Please follow up on your prudent and wise stand on nuclear plants and do everything in your power to permanently stop the opening of the Diablo Canyon facility. The health and safety of this and countless future generations of Californians depends on it.

I also want to take this opportunity to pledge my full support to your drive to make California the world's leader in appropriate, renewable energy resources like solar, wind, biomass, etc. I ask that the state's spending in this field be given as much as possible to small businesses and independent inventors. By promoting small businesses, the government can help to redistribute wealth and power in a natural way that rewards individual incentive rather than corporate monopoly. Investing money in appropriate technology (considering our declining base of natural resources) is money wisely spent and the real alternative to nuclear power.

Finally, I want to express my solidarity with the 500 people who participated in non-violent, civil disobedience at Diablo Canyon last August. It is very unfortunate that Judge Carter refused to allow them to use the defense of necessity. The demonstrators were surely taking prudent action against a grave threat to the public's welfare. Since your own advisors have warned you of the dangers of nuclear plants, I feel it is only just that you give the demonstrators full amnesty. Thank you.

Sincerely,

Tom A. Swanner — Tom A. Swanner
Signature — Print Name

5301 Eagle — Long Beach — Ca — 90815
Address — City — State — Zip

THE NEW AGE CAUCUS

SIMPLE LIVING and HIGH THINKING

Acknowledged by card. 4/10

This form letter was prepared by the New Age Caucus. For more information or additional copies, please call 213-820-8182 or write NAC, 11771 Santa Monica Blvd., LA 90025.

Director NRC
California Blvd
Walnut Creek
94596

4/1/79

Diablo Canyon
Plant

Dear Sir:

During the last year I've done some extensive research on cancer & low level ionizing radiation & I've concluded that the risk, both in view of the above & the Plant's proximity to the fault line that just would outweigh the benefits received by making Diablo Canyon operative.

Sincerely Yours,

[signature]

318 Chestnut St.
Santa Cruz, Ca
95060

April 1, 1979

Federal Nuclear Regulatory Commission
1990 N. California Blvd.
Suite 202
Walnut Creek, Ca. 94596

To Whom it May Concern:

I wish to voice my concern about the situation involving the safety of operations at Diablo Canyon. Besides the damage it has already done to the marine life there, there is constant threat of an earthquake which could produce tragic effects. The fact that the Hosgri Fault zone is located 2 1/2 miles offshore from Diablo Canyon, is without any doubt reason enough to stop & consider design changes.

In the wake of disaster that has already occured in Pennsylvania, I wish to remind you of your responsibility as

Acknowledged by card. 4/10

mandated by Congress to protect the people from nuclear reactor disasters. You have the responsibility of the safe keeping of our environment and lives from radiation leakage. I hope you do not take this lightly.

Sincerely,

Felicia Martinez
4343 Alonzo Ave.
Encino, Ca. 91316

Margaret Culver Cinque
439 East Main Street
Yorktown, Texas 78164

Federal Nuclear Regulatory Commission
1990 North Carolina boulevard, suite 202
Walnut Creek, California, 94596

March 28, 1979

Dear Commission members:

I hope my letter has not arrived too late, as I know you will be making the decision soon, if you have not already, on whether to allow the Diablo Canyon Nuclear Power Plant to go on line.

It is my firm conviction that Diablo Canyon Nuclear Power Plant must not begin operation. As you already have been informed, this particular plant is only 2 miles from the Hosgri earthquake fault, a major fault, and that it was not discovered until the plant was more than half completed. No doubt you realize the magnitude of this hazard to the people & other living things existing near this plant. I'm certain the PG&E company is putting much pressure on all of you to allow the plant to open as they have a multi-million dollar investment there that they do not care to lose even if it means the possibility of numerous deaths and countless health impairments, not to forget the genetic mutations caused by radioactive pollution, if an earthquake were to disrupt the control of the fission reaction.

I plead with each of you to follow your conscience and make your decision based on common sense and your respect for the citizens of California who have made similar pleas to you in order to preserve their health & safety & that of future generations. Do not be misled by shaky & false reassurances from the vested interests of PG&E. Please listen to us and stop this plant from operating now!

Sincerely,

Margaret Cinque

Margaret Cinque
Recent resident of Los Angeles, moving to Texas to try to remove my family from the city's pollution & the threat of nuclear pollution in So. Calif.

P.S. I just heard the newsrelease today regarding the nuclear plant accident in Pennsylvania due to a valve breaking. It is reported that radiation leaked into the atmosphere and in one week it may be detected in the milk supplies of that area. Here is yet another case of the nuclear pollution that is happening because of these nuclear-fission plants. This is not even economical to have plants shut down for as long of periods as required to make a nuclear plant "safe" to operate.

Acknowledged by card. 4/10

Mar 30

Dear Sirs,

Let me introduce myself. My name is Debra Flowers. I'm a voter, a democrat and a woman thoroughly convinced that nuclear power is a grave mistake.

I dont care how much it saves in energy consumption, I don't give a damn if you think the positive points outweigh the negative! You guys are a bunch of thoughtless nincompoops! You can't play russian roulette and expect never to get the bullet!

Now theres a leakage in Penn. and you say the radiation level is low and not dangerous. Thats pure ignorance! Its been proven that even dental and Doctors X-Rays can and do cause leukemia! What about the milk that those cows are producing?

I'm going to do all I can to make sure people concerned with the welfare of our nation and all nations in the future are safe from the unholy waste of nuclear waste & devastation!

Until the day when all nuclear reactors are shut down, until the

4/10

day when men of power are also men of conscience I will join millions of men and women ready to fight for the good of all mankind. We will make others aware of your blunderings and one day the light of the world will be safe and pure.

Please care,

Debra Flowers
1015 Eduardo St
San Pedro Calif
90731

P.S. I've written everyone from Gov. Brown to Ralph Nader in hopes <u>ONE</u> of you will act.

March 27, 1979 Tuesday

Jane Powell
7371 W. 81 st St.
Los Angeles, Calif.
90045

To: the Federal Nuclear Regulatory Commission

Dear Sirs--

Last month I attended a concert supporting the Diablo Canyon Nuclear sites protests. I had not been informed about the Diablo Canyon Nuclear Power Plant before then, and I am not much more informed now. I know only what people tell me, people with motives of which I have no knowledge. I don't know how dangerous the Diablo Canyon project is. It is said that a fault exists near by, and that the site is very illogically chosen for building a nuclear power plant. I urge you, of the Federal Nuclear Regulatory Commission, who know the situation's pros and cons much better than I, to act for the good of the people, present and future, to safeguard lives, not money for individuals of convenient protection for mistakes.

Sincerely,

Jane K. Powell

Acknowledged by card 4/10

Laura Damiani
2204 P Street
Sacramento, CA 95816

Federal Nuclear Regulatory Commission
1990 North California Blvd. #202
Walnut Creek, CA 94596

Dear Commissioners:

Regulation of nuclear power is on everyone'sminds these days. I have recently been writing letters to make my opinion known about the Diablo Canyon Power Plant here in California. I am not a member of any action group. I am writing as an individual who has strong, sincere,negative feelings about the operation of nuclear power plants (especially this one on an earthquake fault line). P. G.+E. has answered my letter with a letter that states that their plant is infallible. That there is little or no chance of any failures in their safety systems. I Believe that all human systems eventually fail (there are no man-made articles that have lasted forever).

What then? I have teenage children who understand the dangers of nuclear "melt-down". They don't want to have to deal with nuclear waste. P. G. and E. told me in their letter that systems for waste disposal are being worked on. This is a backward approach. Please don't leave our children this legacy. They don't want it! Please don't give P. G. and E. the authorization to activate this plant, The monetary wealth that they will generate at this plant is miniscule when compared to the horrors of nuclear exposure. Thanx for your time and the time you will take fo make an humane decision about the activation of Diablo Canyon.

Acknowledged by card. 4/10

Laura Damiani
Laura M. Damiani
Human Being

134 West Poplar Ave.
San Mateo, Ca 94402
March 30, 1979

Federal Nuclear Regulatory Commission
1990 North California Boulevard, Suite 202
Walnut Creek, California 94596

Dear Commissioners:

It has taken a long time for me to be fully convinced of the certain dangers of the Diablo Canyon nuclear facility. Reading fairly widely, listening to the pro and cons, trying to weigh scientists' views has brought me to the evidence of inescapable risk.

It often appears that persons in places of great responsibility, such as your own - in government, industry, education and even in religious hierarchy - become trapped in their positions. They can't get out.

My plea to you is: do your best to get out. Think first of the people of California.

Sincerely,

Edith J. Morris

Mrs. Emory L. Morris

acknowledged by card 4/10

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket No.(s) 50-275
	)	50-323
(Diablo Canyon Nuclear Power	)	
Plant, Units 1 and 2)	)	
	)	
	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s)* upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this
10th day of April 1979.

Peggy T. Dallring
Office of the Secretary of the Commission

*16 ~~letter~~ opinion letters

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket No.(s) 50-275
	)	50-323
(Diablo Canyon, Units 1 and 2)	)	

SERVICE LIST

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Nuclear Projects Engineer
Pacific Gas and Electric Company
77 Beale Street
San Francisco, California 94106

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San Luis Obispo Telegram-Tribune
P. O. Box 112
San Luis Obispo, California 93406

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Public Affairs Officer, Region V
U. S. Nuclear Regulatory Commission
1990 North California Boulevard, Suite 20

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Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. W. Reed Johnson
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Alan S. Rosenthal, Esq.
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

4/9/79

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	Docket Nos. 50-275-O.L.
	)	50-323-O.L.
PACIFIC GAS AND ELECTRIC COMPANY	)	
	)	
(Diablo Canyon Nuclear Power	)	
	)	
Plant, Units 1 and 2)	)	

APPLICANT
PACIFIC GAS AND ELECTRIC COMPANY'S
REBUTTAL TO
JOINT INTERVENORS PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

On March 25, 1979, Joint Intervenors filed 126 proposed findings of fact and conclusions of law. Of the 126 proposed findings, the first 29 were of a historical nature (some relevant and some not) or in the form of conclusions and the last 2 were proposed conclusions of law. The so-called proposed findings of fact consist of some 94 consecutively numbered paragraphs (30-124). Of those 94, 52 fall into one or more of the following categories:

I	No citation to the record for any portion of the proposed finding (proposed finding nos. 34-36, 38-40, 42-44, 46-47, 60-61, 64-66, 68, 71, 74-78, 82, 85, 92, 100)
II	Citation to the record for only a portion of the proposed finding (30, 33, 45, 70, 97, 98, 99, 115, 120)
III	Citations which prove to have nothing whatsoever to do with the proposed finding (58, 79)
IV	Citations where the record as cited is contrary to the proposed finding (37, 49, 52, 54, 59, 72)
V	Citations to many, and in some cases hundreds, of pages of the record (56, 82, 83, 84)
VI	Proposed findings which are clearly arguments or conclusions and not facts (75-78, 86-87, 100, 124)

Applicant respectfully submits that this Board should, at a minimum, ignore the above-enumerated Joint Intervenors' proposed findings (hereinafter "J.I.P.F."). Section 2.754

of the Nuclear Regulatory Commission's Rules of Practice provides in pertinent part as follows:

> (c) Proposed findings of fact shall be clearly and concisely set forth in numbered paragraphs and shall be confined to the material issues of fact presented on the record, with exact citations to the transcript of record and exhibits in support of each proposed finding.

While the regulation does not mandate any specific sanction for deficient proposed findings, case law and common sense dictate that this Board should not be required to search out the record (over 10,000 pages of transcript plus thousands of pages of exhibits) in search of support in the record for Joint Intervenors' proposed findings. The very first sentence under Joint Intervenors' "FINDINGS OF FACTS" (J.I.P.F. 30) is illustrative of one of the many problems such a practice presents. Intervenors state "[c]onstruction on both units of the DCNPP was well underway when the existence of an active geologic fault offshore and running with [sic] 7 kilometers (approximately 2-1/2 miles) of the DCNPP was confirmed." No citation for this proposed "finding" is given. We would hope, however, that the Board would take judicial notice of the fact that any metric conversion table would show that 7 kilometers equals 4.345 miles or that 2-1/2 miles equals 4.03 kilometers. Are Intervenors proposing the Hosgri fault runs 4.345 miles from the plant site? 2.5 miles? One can only guess as there is no citation to the record and Applicant

would submit that nowhere in the record is there any such evidence. There are numerous other examples of proposed findings with no citation to the record, presumably because nothing in the record supports them. Rather than belabor the point here, however, many of these proposed findings will be discussed in the point-by-point rebuttal, infra.

More serious than the example given above are those instances where on review of the cited authority one finds that it is contrary to the proposed finding. For example, proposed findings 73 and 74 cite USGS Circular 672. As discussed, with specific citation to the record, infra, at pp. 10 and 22, the use of USGS Circular 672, Table 2, is totally different than proposed by Intervenors (see also A.P.F. 62 and 63).

The case dealing most comprehensively with an intervenor's failure to file adequate proposed findings is Consumers Power Company (Midland Plant, Units 1 and 2), ALAB-123, RAI-73-5, 331 (1973). In that case, the Appeal Board was reviewing an initial decision authorizing the issuance of construction permits. Separate sets of exceptions to the decision were filed by two separate intervenors. Prior to issuing its initial decision, the Licensing Board requested each group to submit proposed findings of fact. One intervenor stated that it had not chosen to search the record and submit citations. The other intervenor submitted thirty-seven proposed factual findings, but provided no

record citation for any of them. The Licensing Board felt that the intervenors' failure to submit adequate proposed findings could be treated as a default, and that it could strike the interventions and treat the proceeding as uncontested. The Licensing Board declined to do so, however, in view of the fact that the intervenors had participated extensively in the proceeding. The Licensing Board specifically left open for consideration by the Appeal Board the effect of the intervenors' failure.

The Appeal Board stated that it was "not inclined to dismiss a party from further participation as a result of its failure to file proposed findings." The Appeal Board was unwilling, however, to ignore the intervenors' failure and so concluded that it could take the failure into account in ruling upon the exceptions filed by the intervenors. The Appeal Board determined that the challenged findings of the Licensing Board met its standard of specificity and further noted that "intervenors' failure to file adequate proposed findings and conclusions gives a hollow ring to their claim that the Licensing Board should have gone into greater detail." Id. at 357, n. 164.

In Omaha Public Power District (Fort Calhoun Station), LBP-73-24, RAI-73-8, 591 (1973), the intervenor filed proposed findings which the Board described as largely "conclusionary and argumentative." The applicant argued that the filing amounted to a default and that the Licensing

Board should act accordingly. The Licensing Board decided to accept the proposed findings "as a bonafide effort to comply with §2.754 for whatever value they may serve." The Licensing Board then added:

> Since the Board is fully capable of rendering its Decision without reference to the proposed findings of fact and conclusions of law submitted, the party most potentially damaged would not be the Applicant. Rather it would be the one who fails to take advantage of its opportunity to articulate its position through the submission of adequate proposed findings of fact and conclusions of law, and who may thus waive its right of appeal on some issues. [Id. at 594, citing Consumers Power Company, supra.]

Based on the above-quoted language, it appears that the Board felt it could ignore the deficient proposed findings in reaching its initial decision. Applicant would respectfully submit that this Board should thus ignore all proposed findings containing either improper, inadequate or no citation.

POINT-BY-POINT REBUTTAL

I

J.I.P.F. 30-40 are an attempt at an "historical" overview of certain events between the discovery of the Hosgri Fault and the issuance of the ACRS letter. These findings are, for the most part, not supported by citation to the record (J.I.P.F. 30, 33-36, 38-40) or, in one case (J.I.P.F. 37) a review of the specific citation reveals that the evidence is contrary to the proposed finding. Proposed finding 37 states, in pertinent part, that Supplement 4 to

the SER "designated the 0.75g anchor point for the response spectrum to be used in the reanalysis, referenced the USGS recommendation to use the values in Table 2 of the USGS Circular 672 to define the ground motion in the free field [syntax sic]." Applicant has made a diligent search of the entire supplement referenced (as there was no specific citation) and is unable to find language leading to such a conclusion. What one does find at SER Supp. 4, pp. 2-4, is that the USGS "report is intended to form a basis for deriving an effective acceleration for input into the process leading to a seismic design basis." In addition, the USGS report itself (Appendix C to SER Supp. 4) states that "[w]e repeat our opinion that, for sites within 10 kilometers of the surface expression of a fault, the description of maximum earthquake ground motion by means of a single acceleration may not be an appropriate representation." (SER Supp. 4 at C-16, emphasis added.)

Proposed finding 38, again with no citation to the record, is simply false where it states that "[t]he Newmark spectra were used for this reanalysis." As set forth in Applicant's proposed findings (hereinafter "A.P.F."), with specific citation, both the Blume and Newmark spectra were used in the reanalysis, the more conservative spectrum being used in each instance (A.P.F. 74).

While proposed finding 39 (no citations) is in part true in stating that Drs. Trifunac and Luco were "two

consultants deeply involved" in the reanalysis of Diablo, Intervenors conveniently omit the fact that they were but 2 of 11 such consultants (Tr. 9184). Proposed finding 40 is totally improper and should be struck by the Board. The finding, again unsupported by citation, would have this Board consider an incorrectly paraphrased portion of the ACRS letter. The Board has ruled on several previous occasions in these proceedings that such a procedure is improper.

II

Proposed findings 41 through 63 deal primarily with Intervenors' arguments with little citation to the record, as to what they hope the Board will find, even though unsupported by the evidence. Proposed finding 42 is obviously an ultimate conclusion to be decided by this Board with, once again, no citation to the record. The conclusion is contrary to the testimony of Drs. Smith, Bolt, Trifunac, Frazier and others, all as set forth in Applicant's proposed findings (A.P.F. 48, 49, 54) wherein it was established that a magnitude 6.5 was the maximum credible earthquake on the Hosgri. In addition, others testified that the assignment of a 7.5 magnitude earthquake to the Hosgri was very conservative (e.g., Hofmann testimony following Tr. p. 8522 at 1-5, Tr. 8539; Dr. Stepp testimony following Tr. 8484 at 12, 31, 32).

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Proposed finding 43 (again, no citation) is simply contrary to the evidence (Tr. 5334-5338). Such testimony is obviously contradictory to Intervenors' unsupported proposed findings.

In discussing the 1927 earthquake (J.I.P.F. 44, 52, 60 and 62), Intervenors fail to give citations (J.I.P.F. 44 and 60) and mislead the Board. For example, it is stated that USGS takes the position that "no evidence precludes occurrence of the 1927 earthquake on the Hosgri fault" citing a 1976 USGS position (SER Supp. 4, p. C-10) and ignoring the fact that recent work done by Hanks (1977) and Smith (1978) make it, "within a reasonable degree of geologic certainty . . . highly unlikely that the 1927 Lompoc earthquake occurred on the Hosgri" (Smith testimony, pp. 23, 29). A far cry from Intervenors' proposed finding 52 which states that "Dr. Smith's calculations <u>suggest</u> that the Lompoc structure, not the Hosgri fault, was the source of the 1927 earthquake." [Emphasis added.] Intervenors also fail to mention the testimony of Dr. Stepp which states that the NRC staff considers the weight of the available evidence to support the conclusion that the 1927 earthquake was not centered on the Hosgri fault and most likely occurred on structures in the Transverse Ranges (Stepp Testimony at 31).

Intervenors similarly mislead the Board in proposed finding 54 when it is stated that "Dr. Graham presented testimony suggesting that the Hosgri fault <u>is</u> part of a

continuous zone of deformation known as the San Gregorio - San Simeon - Hosgri fault zone." [Emphasis added.] In fact, Dr. Graham testified as follows:

> But as far as present continuity of the system or as far as recency of movement, these offset pairs are insufficient information, they don't address that point. They simply require that at the time of strike - slip there was continuity. [Tr. p. 6197, emphasis added.]

and,

> Our conclusions have no resolution with respect to the present continuity of that full fault system. [Tr. p. 6363, emphasis added.]

Clearly, Dr. Graham did not testify, nor did he even remotely "suggest" that the San Gregorio - San Simeon - Hosgri fault zone is continuous. He simply stated that if his, admittedly "theory" (Tr. p. 6233) were correct, then a continuous fault system must have existed in the past. Similarly, Intervenors state (J.I.P.F. 49) that it is the view of Graham/Dickerson [sic]/Hall . . . that the Hosgri fault is part of a continuous, thorough-going [sic] fault -- the San Gregoria [sic] - San Simeon - Hosgri fault. While, for a pleasant change, Intervenors do supply citations, a review of those citations reveals no such testimony. Dickinson did not testify, but the articles that he and Graham authored are in evidence as Intervenors' Exhibits 33 and 48 and they are absolutely mute as to any present continuity of the three separately named faults.

III

J.I.P.F. 64 through 74 deal, with very little citation or substance, with the subject of ground motion. Proposed findings 64-66 have no citations and are in part argumentative and in part conclusionary. The point of proposed findings 64 through 69 and 73 through 74 seems clearly to be that USGS circular 672 requires the use of a 1.15g acceleration for any response spectrum used in design analysis. Such a conclusion is clearly unsupported in the record. Intervenors would have this Board find that such is the position of USGS (J.I.P.F. 67) despite the overwhelmingly contrary testimony of Dr. Stepp (Testimony 33-34); USGS witness Devine (Tr. 8328); Dr. Newmark (Tr. 8562, 8563) SER Supp. 4, Appendix C, p. c-16, and the circular itself, Intervenor Exhibit 45. Perhaps the clearest testimony was that of Mr. Devine:

> For example, the peak g values that we offer in 672, we have tried to word this report to say that that isn't mandatory, that those numbers automatically be assumed to be the anchor for the response spectrum: that's not what we're saying. And that's why we went to this paragraph to describe ground motion as best we can, leaving the use of that and

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> the development of the response spectrum to the engineering domain where it belongs in the case of this high g value. It's an engineering technique to go through the process of developing the response of the structures based on this ground motion, and we [USGS] do not presume to comment on that. [Tr. 8328.]

In presenting proposed findings regarding witness Brune's testimony (J.I.P.F. 69-71), Intervenors again mislead. After stating that high accelerations are possible they say that the data base is "too limited to be sure what the probabilities are." What they fail to point out is the testimony of Dr. Blume which states the probabilities would be low for any given earthquake (Tr. 8144). They also fail to point out that none of the "possible" causes of high accelerations are ever testified to by Dr. Brune as specifically respects the Diablo Canyon site except focusing and, for that phenomena, Dr. Brune admits that focusing, based on fault mapping, is highly improbable for the Diablo site (Tr. 8023-8025).

Intervenors spend just two sentences (J.I.P.F. 72) informing the Board that the Board should somehow find that Dr. Newmark agrees that the 1.15g acceleration from USGS circular 672 should be used in this case as "justifiable and rationale." We would respectfully refer the Board to Applicant's proposed findings 61 and 63 and request that the Board read Dr. Newmark's testimony at 8609, et seq. to see once again

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yet another example of Intervenors' citation being contrary to the proposed finding.

Finally, proposed finding 74, with no citations and conclusionary in nature, is contrary to the evidence of this case. We would submit that the following testimony of Dr. Seed is dispositive of the question of what acceleration should be used for the ground motion design criteria.

> Dr. Luco states on page 8867 of the testimony that there are two issues that he finds troublesome: one, the use of an effective peak acceleration by the Applicant, and, two, the use of the tau effect in evaluating the base motions for the various structures.
>
> First I would like to say that I agree with what I believe to be Dr. Newmark's testimony that while the concept of an effective peak acceleration is a valid concept for use in structural design, it has not been used and established in the design criteria in this case.
>
> It is NRC practice, as I understand it, and I've seen a lot of plants and worked on a lot of plants which I passed through the review of NRC, to select a conservative earthquake from which to set ground motion design criteria. to [sic] select for this earthquake a mean value of peak acceleration that it could produce at the site, and then to use this acceleration as the anchor point for a very conservative response spectrum shape.
>
> For a magnitude 7.5 earthquake on the Hosgri fault, the mean peak acceleration developed at the site would not be expected to exceed 0.75g. Accordingly, there is no need to introduce the concept of an effective peak acceleration since this is the value already being used.

There are several ways by means of which the selection of 0.75g can be shown to be appropriate and conservative. I believe the best evidence comes from the data presentation of Hanks and Johnson, supplemented by the accelerations recorded in other recent earthquakes and discussed in various pieces of testimony presented in these hearings. [Tr. 10,102, 10,103.]

* * *

Now on this particular plot, I have done what Dr. Luco did in one of his more recent reports to the NRC. He took the three strongest records he could find. What I have done is take the four strongest records I could find.. I can do this because we have more records now than we had when Dr. Luco wrote his report.

They are for the Naghan earthquake in 1977, the Pacoima earthquake in 1971, the Koyna record in 1967, and the Gazli earthquake in 1976. The magnitudes range from 5.5 to 7.2. And you'll notice that it's appropriate to include the 5.5 magnitude earthquake because in point of fact although the magnitude for that is the lowest of the four records included, that the peak acceleration for that is higher than that for any of the other records that are shown there.

So what I've done is pick out the four strongest horizontal component records that are available at the present time and averaged those accelerations, and the average of all those is 0.8.

Now if the average of the four strongest is 0.8 then the mean clearly must be less than 0.8. And therefore I cite this as another example and as another simple way of showing that the mean acceleration produced by a Hosgri earthquake would be not greater than 0.75g which is the value being used to

> anchor the spectrum for the design of the Diablo Canyon Plant.
>
> I conclude from these results that there is no need to introduce the concept of an effective peak acceleration in this case. The actual mean acceleration associated with the magnitude 7.5 earthquake of the Hosgri fault is less than 0.75g. And this is the value used to anchor the spectrum in accordance with customary NRC procedures.
>
> Accordingly, if no peak acceleration is involved in the procedure, there is no reason for Dr. Luco to find it troublesome. [Tr. 10,107-108.]

IV

Proposed findings 75 through 87, again, woefully lacking in citations to the record, are Intervenors conclusionary and argumentative attempt to place before the Board facts not in the record, contrary to the evidence, or against the full weight of the evidence. Proposed findings 75-78 are totally devoid of any citation, are argumentative and clearly should be disregarded. Proposed finding 79 attempts to discredit Dr. Newmark by raising an apparently "disconcerting" inconsistency by pulling one sentence of testimony from the hearings and comparing it with one sentence from a report dated some years ago (SER Supp. 5 [not 4, as cited] at p. C-2). Applicant would respectfully request the Board to reread the transcript at 9286 et seq. where Intervenors' counsel attempted and failed the first time to point out this "inconsistency" of Dr. Newmark's.

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As respects proposed finding 82, again absent specific citations to the record, search as one can, one cannot find the words "double bookkeeping," or anything analogous, in Board Exhibit 2(c). The phrase, and concept, appear for the first time in the proposed finding.

Intervenors devote two whole sentences to "tau" in proposed finding 83. The rebuttal testimony of Drs. Blume, Frazier and Seed (Tr. 10,123-126; 10,127-136; 10,144-160, respectively) shows quite convincingly that Drs. Luco and Trifunac were mistaken in their beliefs as to both what the purpose and results of Applicant's work in this area were.

As to damping, Intervenors once again fail to give specific citations and treat the subject matter in two sentences (J.I.P.F. 84). Perhaps the best answer to their contentious proposal is the testimony of NRC staff witnesses Knight and Kuo (Tr. 9818-9824).

> Q The record reflects, I believe, that both Dr. Luco and Dr. Trifunac have recommended the use of five percent structural damping as opposed to the seven percent structural damping employed for the reanalysis of the Diablo Canyon Plant.
>
> I would like to indicate whether or not the Staff was aware of their recommendation prior to the testimony given in this proceeding.
>
> A (Witness Knight) Yes, we were.
>
> Q And would you please indicate whether or not the Staff took account or considered their recommendation in performing its review?

A Yes, we did.

Q And would you give us any conclusions that you arrived at in performing your review of their recommendation?

A Well, the bottom line, as it were, was that we concluded that the seven percent structural damping as published in Regulatory Guide 1.60 was appropriate for the reanalysis of the Diablo Canyon Plant.

Regulatory Guide damping values were developed after review of all of the data known to us and known to our consultants. These data were obtained from forced vibration tests of structures, including reactor buildings and commercial buildings, and from actual earthquake data where available, and were supported by laboratory tests of what I would call structural elements, that is a beam or a section of a wall.

While it is true, as Dr. Luco pointed out, that it's currently impossible to separate what is called soil damping and radiation damping from true structural damping in the tests of actual buildings, all of the data taken from the actual building tests, be they natural earthquake or forced vibration tests, showed an unquestionable trend toward higher damping as the strain rates increased.

That is, if you test at very low levels, you would find very low damping, and as you went on and caused greater strains in both the soil and the building, you would see higher and higher damping. And in order to put that in perspective, I think perhaps I ought to make a point here.

Although Dr. Luco is certainly aware of it, in the record I don't think it comes out clearly that his criticisms of the fact that all the data is tainted, if you will, with soil damping doesn't mean that the test information we get just indicates something like seven percent damping, and so a lot of that has to be due to soil and therefore your damping is somewhat lower.

In reality what we find is that the damping measured in the total building-soil system is much higher than seven percent. A little over a year ago I had occasion to visit with the Japanese and discuss what I think is perhaps one of the best forced vibration tests run on a reactor structure to date at the Tokai 2 reactor. And in that instance damping in the order of 20 percent or more was seen, still at relatively low levels compared to earthquakes, but at somewhat higher forced vibration levels than anyone else has used to date.

So when we're looking for that fraction of the damping that is actually present due to the structural damping, we start off with a base considerably higher than seven percent. And now the question is how much of that higher damping value can we really attribute to the structures. It's at that point that we turn toward the laboratory tests we've seen; one of which Dr. Luco referenced was put into the record by the Applicant was a shear wall. A reinforced concrete shear wall was tested in the laboratory and at strain levels in the vicinity of the yield level, and that's what we're talking about for the Hosgri event and Diablo Canyon.

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We see pure structural damping in the range of ten or maybe a little more percent. So putting all of this evidence together, we believe it becomes evident that the seven percent structural damping for reinforced concrete is an appropriate and conservative value.

Drs. Luco and Trifunac were critical of this damping value consistently, but to our knowledge they have never produced any specific information or analyses to support their criticism. Their only reference has been to some test data at the Miliken Library and some preliminary test data on reinforced masonry.

Q I'm not sure I understand your answer completely with respect to the seven percent structural damping.

Would you relate that again with respect to the actual building tests and laboratory tests?

A Well, in an attempt to summarize what I said, when we measure damping in actual buildings, like a structure or a building founded on soil or rock or some other substance, we have to measure a combined damping. The question then becomes, well, how much of that combined damping can we attribute to the structure and how much can we attribute to the soil, or how much must we attribute to the soil.

As I believe I then indicated, we find that very large amounts of damping are measured when we measure the total system, making the laboratory tests of individual structural elements which show a fraction of that total damping very credible.

I believe it shows a consistent pattern: large damping for the total system, a fraction of that, on the order of seven to ten percent, at the yield range, yield strength, for the structural damping where we're speaking of reinforced concrete.

Q You mentioned Dr. Luco's and Trifunac's critique. Do you recall in their testimony their reference to test data taken at the Miliken Library and preliminary data on tests of reinforced masonry?

A (Witness Kuo) Yes.

Let me respond to this one.

Q Do you recall that reference?

A Yes, I do.

Q Would you give us your assessment of the Miliken Library test data, please?

A Sure.

The Miliken Library tests were forced vibration tests at very low amplitudes. Drs. Trifunac and Luco, as I understand it, seem to feel that they can extrapolate this one segment of data to a systematic [sic] method for a separating the structural damping from the combined structure and soil damping measured in the tests. I do not believe that these limited results obtained to date are useful in our assessment of the Diablo Canyon Plant, the reasons being in the first place the tests were totally unrepresentative of the conditions that would exist in the nuclear power plants subject to strong earthquake motions. The strains caused in the Miliken Library building by the referenced tests

were very very low compared to those that would be experienced under strong earthquake motions.

The amount of damping observed is known to depend on the level of strain and the relationship particularly of [sic] the higher strain level is nonlinear. Therefore making the extrapolation from low level tests is very difficult.

Secondly, the results and the conclusions referenced by Drs. Trifunac and Luco are as yet unpublished and so have not been subject to the peer review and the critiques by the engineering community.

Q Similarly, Dr. Kuo, would you give us your assessment of the reinforced masonry test referenced by Dr. Trifunac and Luco?

A Yes.

The reinforced masonry tests appear at this time at least to have little relevance to damping in reinforced concrete structures used at any nuclear power plants. Again, the preliminary test results referenced by Drs. Luco and Trifunac are as yet unpublished, and so again have not been subject to any review or any critiques by the engineering community.

Intervenors propose that both Drs. Trifunac and Luco are "concerned about safety equipment as much as they are about the structures." (J.I.P.F. 85.) Apparently, Intervenors have forgotten the uncontroverted testimony of Dr. Trifunac who states that "the structures within the complex of the plant are reasonably designed to withstand a

reasonable earthquake on the Hosgri Fault." (Tr. 9199.) But perhaps more telling is, again, the testimony of NRC witness Knight (Tr. 9840-9841):

> "Basically, however, I understand their concerns-- And as I said, we've been dealing with them for some extended period now. --as relating to their concern that the seismic input they perceive to be below tht [sic] that they would recommend or prefer, and that since that basic seismic input is less conservative than they would desire, that there may be deficiencies in equipment qualification.
>
> "Implicit in their expressed concern appears to be the assumption that seismic, that initial seismic input to the structure is a key parameter. --or perhaps I should rephrase that: is the key parameter in the equipment qualification, when, in fact, it's only one step as I have just tried to point out in my previous testimony, one step in a process that's replete with conservatisms."

J.I.P.F. 88-100 deal with the operating basis earthquake. Although the author of these paragraphs is more generous in his citations to the record, the proposed findings are either contrary to the record or the the weight of the evidence in the record and thus must be rejected.

For the reasons outlined in the reply to J.I.P.F. 42 a finding by the Board as suggested in J.I.P.F. 88 that the Hosgri fault is capable of generating a 7.5 magnitude earthquake is improper. A 6.5 magnitude earthquake is the largest

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earthquake this fault can be expected to generate (see authorities, quoted in reply to J.I.P.F. 42, supra, p. 7).

J.I.P.F. 89 is improper because it misapplies USGS Circular 672. As the USGS made clear in its report dated April 29, 1976, (Appendix C to SER Supp. 4) the ground motion values set forth in the Circular are to

> . . . be used to form the basis of a description of the earthquake postulated to have the potential for occurring on the Hosgri fault . . . The earthquake so described should be used in the derivation of an effective engineering acceleration for input into the process leading to the seismic design analysis [P. C-16.]

Thus using 1.15g as the SSE is directly contrary to the recommendation of the USGS and must be rejected.

J.I.P.F. 92 also is directly contrary to the evidence and must be rejected. The Diablo Canyon plant is located in an area of low seismicity (Tr. 5457).

Concerning J.I.P.F. 93, 94 and 95 Applicant fails to see what relevance they have in this proceeding. Obviously, a lower OBE is more conservative because such an earthquake (and the resulting required follow-up inspection) is more likely to happen than a larger earthquake. Also, a lower OBE is more in keeping with the definition of OBE in the regulations as "that earthquake which . . . could reasonably be expected to affect the plant site during the . . . life of the plant." (10 CFR 100, Appendix A § III(d). Moreover,

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an OBE has economic rather than safety significance. As pointed out by Staff witness Knight, the

> . . . central question with respect to the OBE . . . is not whether the public health and safety would be adversely affected should the OBE occur, but whether continued operation of the plant throughout its lifetime could be accepted without reevaluation of the plant's systems, structures and components should the OBE occur. [Knight testimony following Tr. 8697 at 6.]

Further, there was additional testimony that more often than not margins of safety are actually reduced by specifying a larger or higher OBE (Tr. 8714). Finally, there was unrefuted testimony that the OBE selected by PGandE conforms to the regulations, does not constitute an exemption or waiver of them (Tr. 8471, 8472) and has been accepted by the Staff (SER Supp. 7, pp. 2-4, 2-5). In its J.I.P.F. 95, Intervenors ignore the fact that PGandE's analysis was confirmed by an independent analysis prepared by Staff consultants, and that Joint Intervenor consultant Dr. Trifunac also performed such an analysis which agreed with the Staff's conclusion (Tr. 8424). The implication of J.I.P.F. 93, 94 and 95 is that there is an ironclad rule that the OBE <u>must</u> be at least equal to one-half the SSE. However, as cited above and in A.P.F. 88-91, the evidence is to the contrary.

The first sentence in J.I.P.F. 96 is a direct quote from one of the bits and pieces of Intervenor witness Hubbard's testimony which survived the motions to strike.

On the stand Mr. Hubbard admitted he recalled the PGandE testimony that an OBE of 60% of the SSE was in fact used for the testing of electrical equipment (Tr. 7687), and that, therefore, his sentence

> . . . disappears in terms of significance . . . [Tr. 7845, 7846.]

Accordingly, based on the Intervenor witness' own testimony, this proposed finding should be rejected.

In J.I.P.F. 97 Joint Intervenors attempt to assign design significance to the OBE by misciting (the correct citation is Tr. 7672) PGandE testimony that in a few places in the plant's piping system the OBE was controlling. However, this was later explained by a Staff witness to mean that in a few instances the ratio of the highest OBE stress to the OBE allowable was higher than the ratio of the highest Hosgri stress to the Hosgri allowable (Tr. 8700). The witness went on to explain that he was aware of no case where the stress in a piping system for an OBE was higher than the highest stress in the same piping system from the Hosgri event, and that in any event whether the OBE stress or the Hosgri is controlling or limiting makes no difference as long as one does not exceed the code (Tr. 8700, 8709).

J.I.P.F. 98 does not accurately reflect the evidence in the record. In the first place a vertical analysis was performed for the Hosgri event which, in effect, renders the proposed finding moot (SER Supp. 7, p. 3-22). Secondly, a

vertical dynamic analysis was performed for the OBE for the containment structure where the structure was vertically sensitive (Tr. 7041-7056). For the auxiliary building a vertical amplification factor of 1.35 was used (Tr. 7134-7135), and for the outdoor water storage tanks a 50% amplification factor was used (Tr. 7309). With regard to the intake structure the Hosgri evaluation confirmed there was no vertical amplification (Tr. 7228). Concerning piping, vertical spectra were used and a witness testified that all piping would be within the OBE allowables if analyzed using vertically amplified spectra (Tr. 7672-7674, 8710). Furthermore, the selection of a relatively low OBE leads to further conservatisms. In any event there is no basis in the record for the proposed finding.

J.I.P.F. 99 completely ignores the fact that PGandE has developed a post-OBE inspection plan (Tr. 7477-7479). In addition, regarding the significance of so-called Category B tasks, two of which are referred to in the proposed finding, in its exhibits the Staff points out they are of lesser safety significance than the Category A tasks, can be resolved

> . . . either by system alterations using available techniques and equipment or by operational modifications. . .

and accordingly,

> . . . detailed information on [them] is not, in our judgment necessary . . . [Staff Ex. 12, p. vi; Staff Ex. 15, pp. 6-3, 6-4.]

Conclusionary J.I.P.F. 100 must be rejected. There is nothing in the record to support the statement in the first sentence that the OBE provides an important margin of safety, and a similar statement was ordered stricken from Mr. Hubbard's testimony (Tr. 7836). In fact, the evidence is to the contrary (supra, pp. 22, 23). Furthermore, the provisions in the proposed finding regarding areas of high seismicity are not applicable because, as we have seen, the Diablo plant is located in an area of low seismicity (Tr. 5457). The suggestion that the OBE should be set at a "g" level high enough so that a post-OBE inspection will not be required is directly contrary to the regulation, which provides that the OBE can reasonably be expected to occur during the operating life of the plant (10 CFR 100, Appendix A, § III(d)). A similar statement was stricken by the Board from Mr. Hubbard's testimony on the grounds he lacked the necessary expertise, and thus the statement is totally without support in the record (Tr. 7836). Accordingly, the last sentence in the proposed finding likewise is not supported by the record and must be rejected.

The next series of proposed findings (J.I.P.F. 101-117) deal with structural and equipment testing.

In J.I.P.F. 101, Joint Intervenors quote a portion of Supp. 7 of the SER. However, the quote omits the Staff's conclusion, which puts the matter in the proper perspective.

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> As discussed above . . . we believe these relaxations are justified. The other usual conservatisms still apply. Thus, based on our review, we conclude that, taken as a whole, the general methods and procedures outlined above are conservative and provide for adequate safety margins in the design of Category I structures. [P. 3-23.]

Furthermore, the Staff testified it did not lower its standards during review of the Diablo Canyon application (Tr. 8712).

J.I.P.F. 102-104, 110, 112 and 113 deal with the tau effect. Applicant's witness Dr. Blume testified that applicable regulations, standard review plans and guidelines require that an appropriate analysis be done and that in his opinion the tau effect was an appropriate analysis (Tr. 7119). He also testified that tau had been around for a long time and was generally known in the industry (Tr. 10,123). Finally, he pointed out that in making the tau reduction he had been very conservative and ignored two factors which would have reduced the ground motion effects even further: contiguous foundations and embedment (Tr. 10,125, 10,126). In addition, Applicant witness Dr. Seed showed how the tau effect for Diablo can be derived by waves arriving at less than perfectly vertical, by nonhomogeneity of the rock structure upon which the foundation rests, and by taking credit for soil structure interaction affects which were not included in the rigid base analysis procedure used for design (Tr. 10,152-10,160, 10,162-10,166). In conclusion Dr. Seed testified that in his opinion the tau reduction

used by Drs. Blume and Newmark was both justified and scientifically defensible (Tr. 10,167). In addition the Diablo Canyon plant has been the subject of the most extensive Staff review of any nuclear facility ever undertaken (Knight testimony following Tr. 8697 at 54). In any event the numbers quoted in Proposed Findings 103, 104, 110, 112, and 113 are not significant because they only represent values at the zero period. As one gets out into the spectral curves the amount of tau is reduced, and at four-tenths or five-tenths seconds tau disappears, which is at the period certain structures, such as the auxiliary building, become affected (Tr. 7167-7170; Blume testimony following Tr. 6100 at 42-44). Also, as explained earlier, the Newmark spectrum or the Blume spectrum was used depending upon which was more conservative (Tr. 10,126). In any event, there is ample evidence in the record to support the use of tau in the Diablo Canyon design.

J.I.P.F. 105-111 deal with damping. The damping values used by Applicant were those permitted in Regulatory Guide 1.61, which the Staff concluded were appropriate for the reanalysis of the Diablo Canyon Plant (Tr. 9819; SER Supp. 7, pp. 3-19). The damping values in Regulatory Guide 1.61 are conservative and in reality it has been found that damping measured in the actual total building-soil system is much higher than 7% (Tr. 9820-9822, supra, p. 15 et seq.).

///

In Proposed Findings 114 and 115, Joint Intervenors discuss the use of average values of material properties to determine allowable stress levels instead of code specified minimum material properties. However, the use of actual values is acceptable for the Hosgri analysis because an actual structure is involved as opposed to a proposed structure. Codes and standards are appropriate for the latter since there are no actual values. In the evaluation of a completed facility, it is appropriate to use the properties that actually exist (Tr. 6944, 6945, 7075, 7141-7144, 7211-7214, 7249, 7260-7262, 7300, 8712, 8713). This practice was acceptable to the Staff (SER Supp. 7, pp. 3-20; Knight testimony following Tr. 8697 at 13, 14; Tr. 8713). In short, the use of actual values was thoroughly justified.

Joint Intervenors in Proposed Finding 116 attempt to find fault with PGandE's qualification of electrical equipment on the grounds that there is no record that the effects of aging have been considered and that seismic qualification testing may have introduced significant common failure modes not readily detectable. These issues were dealt with definitively in A.P.F. 107. Joint Intervenors have cited nothing which refutes the authorities cited in paragraph 107, and these authorities provide a more than sufficient basis to reject J.I.P.F. 116.

The first J.I.P.F. 117 refers to Regulatory Guide 1.92. An Applicant witness explained why the Guide was not

applicable to all items PGandE analyzed (Tr. 7593, 7594). The status of Class B Task Action Plans has already been discussed and the reasons why the Staff believes they need not be dealt with at this time (supra, pp. 25, 26).

With regard to the second J.I.P.F. 117, while the study requested by the Staff showed that the Regulatory Guide 1.92 method of combining responses gives greater loads at some locations than the method used by Applicant, the study also showed that at other locations the method used by Applicant produced greater loads than the Regulatory Guide 1.92 method. The Staff reviewed the results of Applicant's study and considers the method used by Applicant to be acceptable (SER Supp. 7, pp. 3-52, 3-53; SER Supp. 8, pp. 3-23-3-28).

Joint Intervenors Proposed Findings 118-124 deal with the Staff treatment of generic safety issues. The findings proposed by Joint Intervenors are surplusage because the Board has already ruled, correctly, that the Staff has made an adequate presentation concerning the generic safety issues (orders dated February 26 and March 12, 1979). The affidavits and exhibits submitted by the Staff (Staff Exs. 11, 12, 15, 16, 17) meet the tests set forth in the River Bend (6 NRC 760) and North Anna (8 NRC 245) proceedings. Further, as the Board noted (Tr. 10,054), the North Anna decision does not mandate a hearing. Although the Appeal Board has already disposed of these issues in its two uncontested

orders, in the interest of correcting the misleading implications of Joint Intervenors' Proposed Findings on generic safety issues, Applicant offers the following comments:

(a) With regard to Tasks A-43 and A-44, they are specifically dealt with by the Staff in Exhibit 15, which sets forth the Staff's evaluation and its conclusion that issuance of operating licenses for the units is unaffected by these ongoing generic tasks (Ex. 15, pp. 7-30-7-34). Thus, the matter has been resolved.

(b) There is no requirement that the Staff quantitatively evaluate the cumulative risk due to all generic activities under consideration as suggested by Joint Intervenors on page 59. In fact, the Commission in a statement dated January 18, 1979, accepted the conclusion of the Risk Assessment Review Group that the error bounds on estimates of probabilities are understated where there is an inadequate data base. (See statement attached to L. Dow Davis' letter dated February 14, 1979.) The NRC in a memorandum dated December 11, 1978 (also attached to the Davis letter dated February 14, 1979) noted that, with certain exceptions not applicable here, the Staff had not made use of WASH-1400 in the licensing process. Furthermore, in a letter dated November 21, 1978, served upon all parties, the Staff stated it had not relied upon its evaluation of Applicant's seismic risk assessment in making its decisions regarding licensing Diablo Canyon.

(c) Footnote 21 mentions Tasks B-63 [sic] and B-34. The deferral of handling Category B tasks has already been discussed (supra, pp. 22, 23). Task A-15 also mentioned in the footnote is not relevant to this or any other licensing proceeding (Staff Ex. 15, pp. 4-2, 4-3).

(d) The requirement that the Board be provided with information to assess the cumulative impact on public health and safety of all generic activities has already been rejected by the Board in ruling on a contention proposed by Joint Intervenors (Order dated May 25, 1977). In addition, the generalized request that the Board be furnished with information on all generic activities "unresolved, under consideration, or grandfathered" is the type of request that was rejected in River Bend. That case held that a connecting link must be supplied between a Task Action Plan and the safety of a facility before the matter need be considered by a licensing board.

> To establish the requisite nexus between the permit or license application and a TSAR item (or Task Action Plan) it must generally appear both (1) that the undertaken or contemplated project has safety significance insofar as the reactor under review is concerned; and (2) that the fashion in which the application deals with the matter in question is unsatisfactory. . . . [6 NRC 773.]

Having failed to establish the requisite nexus, the Joint Intervenors proposed finding 120 must be rejected.

///

(e) Joint Intervenors complain that Task Action Plan A-33 was dismissed by the Staff as not relevant to the informational requirements of River Bend. The Staff's position is proper because that case applies to the Staff's procedures for reviewing safety questions as opposed to environmental issues (6 NRC 764).

(f) The handling of Class 9 accidents in environmental reports is set forth in the proposed Annex to Appendix D to 10 C.F.R. 50. Appendix D was revoked in 1974 and replaced by 10 C.F.R. 51. However, the revocation of Appendix D did not affect the status of the proposed annex (Offshore Power Systems 8 NRC 194, 210). Class 9 accidents are considered in the Annex wherein it is concluded that such accidents are so remote that their environmental risk is "extremely low" and thus they need not be considered in Environmental Reports (Annex, p. 2). Thus, contrary to footonote 22, Class 9 accidents were considered in connection with the Diablo Canyon environmental review.

(g) With regard to ATWS (Proposed Finding 122), the Staff's reasoned basis for permitting operation of the Diablo Canyon units in the interim period while final resolution of the matter is before the Commission is set forth at pages 12-15 of Staff Exhibit 16.

(h) Joint Intervenors' Proposed Finding 123 is puzzling for in Exhibit 15 the Staff clearly states the basis for its position that detailed information on the

remaining Category B, C, and D tasks is not necessary. Briefly, it is based upon the fact that any of these tasks which have safety significance can be resolved by system alterations or operational modifications (Staff Ex. 15, p. 6-3). Thus, they need not be completed prior to licensing of the Diablo Canyon units.

Respectfully submitted,

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MALCOLM H. FURBUSH
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(415) 781-4211

Dated: April 9, 1979

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket No. 50-275-OL
	)	Docket No. 50-323-OL
Units 1 and 2	)	
	)	
Diablo Canyon Site	)	
	)	

ERRATA AND SUPPLEMENT
PROPOSED FINDINGS OF FACT
AND
CONCLUSIONS OF LAW
SUBMITTED BY
PACIFIC GAS AND ELECTRIC COMPANY

The Proposed Findings of Fact and Conclusions of Law submitted by Pacific Gas and Electric Company should be amended to read as follows:

1. PGandE Exhibits (p. 11)

62	Near Field Strong Motion Records Not Included in Hanks and Johnson data (slide)
63	Peak Horizontal Accelerations Recorded in Naghan, Pacoima, Koyna and Gazli Earthquakes (slide)

2. Staff Exhibits (p. 16)

16	Affidavit of Allison and Thadani Relating to ATWS
17	NRC Staff Motion Re Radon Testimony and Perkins Record

3. Page 31, line 10 - delete "magnetic"
4. Page 32, line 26 - delete "and finally", insert "then"
5. Page 33, line 1 - delete "Gabriel", insert "Gabriel and finally to the San Andreas again"

6. Page 64, line 1 - delete "rests", insert "rests and by taking credit for soil structure interaction effects which were not included in the rigid base analysis procedure used for design."

7. Page 88, line 25 - delete "appreciable", insert "applicable"

Respectfully submitted,

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	)	Docket No. 50-323-OL
Units 1 and 2	)	
	)	
Diablo Canyon Site	)	
	)	

CERTIFICATE OF SERVICE

The foregoing document(s) of Pacific Gas and Electric Company ~~has~~ (have) been served today on the following by deposit in the United States mail, properly stamped and addressed:

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Date: April 9, 1979

DOCKET NUMBER
PROD & UTIL FAC. 50-275, 323 OL

DEAR F. N. R. Commission

WHAT are you gona do about the Nuclear Power speading allover. well, we wanted to do something here in California to draw attention to the insane threat to human life created by the Diablo Canyon nuclear Facility. We must do all we can to help stop the uncontrollable buildup of deadly nuclear wastes that threaten humanity itself. Can you people see that! Its getting Bad. HERE are some questions AND I would like some answers.

1. WHAT will PG&E do for an encore after the earthquake? Will it be able to purchase another environment, free of cancer-causing radioactivity, for San Luis Obispo & Santa Barbara counties? Will it be able to replace the men and women & children who lived there?? I want to Know . . . .

Sincerely

GRACIE GARCIA
560 CREEKSIDE Cir.
OAMARillo, Calif.
93010

4/4/79

March 30, 1979.
San Luis Obispo, Ca.

DOCKETED USNRC
APR 4 1979
Office of the Secretary Docketing & Service Section

UNITED STATES NAVAL AIR FORCES

DOCKET NUMBER PROD. & UTIL. FAC. 50-275 323 OL

Nuclear Regulatory Commission
Licensing Board for Diablo Canyon
Washington, D.C.

Dear Commissioners,

Had I only listened to the environmentalists a few years ago! I have never held a real definite position on Nuclear Energy until the Pennsylvania accident. I hear this is just like Diablo Canyon in design except Diablo is built on an earthquake fault that it was not designed for.
It is not right for you to have this "Kiss of death" power over our community.
Please do not allow Diablo Canyon to operate!

Acknowledged by card. 4/4

Sincerely,
Nancy & Richard Manzer

DOCKET NUMBER 50-275, 323 OL
PROD. & UTIL. FAC. 50-361, 362

RECEIVED MAR 20 1979 REGION V INSPECTION & ENFORCEMENT

1515 Stuart St.
Berkeley, Calif. 94703

March 17, 1979

Nuclear Regulatory Commission
1990 N. California Blvd. Suite 202
Walnut Creek, Calif. 94596

DOCKETED USNRC APR 4 1979 Office of the Secretary Docketing & Service Section

Dear Sirs and Mesdames:

As a citizen concerned with the well-being of both this planet and its inhabitants, I urge that do Not approve operating licences for the power plants at Diablo Canyon - or the one at San Onofre. It is essential that plants not be built in earthquake country → let alone be allowed to operate.

Furthermore, there must be full public input at the beginning of the construction liscensing process. By the time the plant is built, the question of its operating safety was with the financial ruin of refusing to liscence it for operation. That refusal must take place in these two cases - as it did if the

past year in Austria for a plant already built. But future operating of the liscensing process - must have public input at the start.

The state and its public must retain their right to regulate location of plants and dumping grounds. Nobody wants any of this deadly business in their own backyard - and federal status of a regulatory commission is therefore inappropriate. Take a stand with the State Energy Commission: far from making your jobs obselete, the combined strength of state and federal support of nuclear-waste free environment will assure the reduction of a huge amount of fear in our people and our children.

Carolyn Edwards

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket Nos. 50-275 OL
	)	50-323 OL
(Diablo Canyon Nuclear Power Plant, Units 1 and 2)	)	

ORDER RELATIVE TO NRC STAFF'S
MOTION FOR ADDITIONAL TIME

On April 4, 1979, the Staff requested five additional days, to April 10, to file its proposed findings due to the fact that technical advisors were unavailable because of the Three Mile Island, Unit 2 matter. The Staff stated that neither Applicant nor the Joint Intervenors objected.

For good cause stated, the motion is granted.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

Elizabeth S. Bowers

Elizabeth S. Bowers, Chairman

Dated at Bethesda, Maryland
This 5th day of April 1979.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket No.(s) 50-275
	)	50-323
(Diablo Canyon Nuclear Power	)	
Plant, Units 1 and 2)	)	
	)	
	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s)* upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this
6th day of April 1979.

Leon T. Gauthier
Office of the Secretary of the Commission

* 3-ltrs of opinion
4- Sub Order Relative to NRC Staff's Motion for Additional Time dtd 4/5/79

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket No.(s) 50-275
	)	50-323
(Diablo Canyon, Units 1 and 2)	)	

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before The Atomic Safety & Licensing Board

4/5

In the Matter of:	)	
	)	
PACIFIC GAS & ELECTRIC COMPANY	)	Docket Nos. 50-275 OL
(Diablo Canyon Nuclear Power	)	50-323 OL
Plant, Units 1 & 2)	)	

ERRATA SHEET TO JOINT INTERVENORS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Listed below are corrections to the Joint Intervenors' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW, submitted in the above captioned case on March 25, 1979.

Page	Line	Reads	Should Read
Table of Contents		VI CONCLUSIOS	VI CONCLUSIONS
1	FN 1	generate, at	generate at
1	FN 1	thermal, with	thermal with
1	FN 1	ready to fuel land.	ready to fuel load.
3	2	and Luco,	and Luco
3	FN 2	sponsor the experts	sponsor experts
3	FN 3	7 NRC 989, 91-2	7 NRC 989, 991-2
4	3	Register on Ocotber	Register on October
4	12	State of California; State Polytechnic	State of California, State Polytechnic
4	FN 5	7 NRC 989, 92-93	7 NRC 989, 992-3
7	20	January 1, 1979	January 1, 1978
8	2	of the Safety issues	of the safety issues

Page	Line	Reads	Should Read
9	2	2A-1	2A-I
9	6	the Diablo Canyon Site:	the Diablo Canyon Site"
9	12	its impact on Overall	Its Impact on Overall
10	13	In Evidence (no reference)	6926
10	14	In Evidence (6926)	8114
12	1	Jahn's	Jahns'
12	3	Jahn's	Jahns'
15	8	GandH Previously	G and H Previously
17	5	reananlysis	reanalysis
17	18	informed the Office of	informed the Office of General
20	FN 12	INTERPRETIVE	INTERPRETATIVE
21	4	and, suggested	and suggested
21	12	would issue	could issue
23	5	running with 7 kilometers	running within seven kilometers
24	10	equivalent to 0.04g.	equivalent to 0.40g.
24	FN 19	earthquake potential	earthquake based on the maximum earthquake potential
24	FN 19	- or "g" value,	- or "g" value -
25	2	would not withstand 0.50g.	would withstand 0.50g.
25	8	0.5 g used as a zero	0.50g used as a zero
25	21	To this time,	Up to this time,
26	5	supplement, designated	supplement designated
26	7	reanalysis, referenced	reanalysis and referenced
27	4	maximum credible eathquake	maximum credible earthquake

Page	Line	Reads	Should Read
27	17	7.5 Magnitude is	7.5 Magnitude earthquake is
28	1	offshore, and underwater	offshore and underwater
28	20	to the 1906, 7.8 to 8.2 Magnitude	to the 1906 San Francisco earthquake - 7.8 to 8.2 Magnitude
30	5	Graham/Dickerson/Hall	Graham/Dickenson/Hall
30	5	continous,	continuous,
30	6	thorough-going	through-going
30	6	San Gregoria	San Gregorio
30	9	one of an echelon	one of en echelon
30	21	in terms of step rates	in terms of slip rates
31	18	This continous zone	This continuous zone
31	19	meters in legnth,	meters in length,
32	13	7.5 Magnitude earthquake -	7.5 Magnitude earthquake or greater -
33	12	noted in our review	noted in the review
33	18	the 14 miles magnitude	the 7.3 Magnitude
34	3	and probable fault of	and probable faulting of
34	13	position, because	position because
35	6	with acceleration velocities	with accelerations, velocities,
35	11	acceleration displacement.	accelerations, and displacement.
35	16	for large earthquakes.	for large earthquakes in the near field.
36	9	earthquakes of 79.5	earthquakes of greater than 5.5
36	14	than 7. Magnitude	than 7.0 Magnitude

Page	Line	Reads	Should Read
37	4	for accleration, velocity	for accelerations, velocity,
37	13	extrapolations for 7.5	extrapolations contained in USGS Circular 672 for 7.5
37	14	justifiable and rationale.	justifiable and rational.
38	15	argue that a case of	argue the case that
38	17	We process the total reduction as discrete considerations. However, structural response	We are not dealing with a single reduction, but with three reductions. Structural response
40	6	as Magnitude 7.5	a Magnitude 7.5
40	17	at 1-3 (emphasis added)	at 1-3 (emphasis added))
40	25	In his AIC Code,	In his ATC Code,
41	15	that the tests results	that the test results
42	2	This last spectrum generates true histories to be used to test equipment.	This floor response spectrum in turn is used to generate time histories to test equipment.
43	23	(no reference)	(Licensing Board Exhibit No. 2(J))
48	10	Staff than no functional	Staff that no functional
50	3	at least 0.275g horizontal	at least 0.375 horizontal
52	4	27%.	16%.
53	4	[Insert] before (Tr., at 7131-7132)	[The reduction for the Newmark spectra for Tau effect was from .75g to .55g at the zero period acceleration, a reduction of approximately 27%.]
56	3	introduced significantly	introduced significant

Respectfully submitted,

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NUCLEAR REGULATORY COMMISSION

Before The Atomic Safety & Licensing Board

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	)	
PACIFIC GAS & ELECTRIC COMPANY	)	Docket Nos. 50-275 OL
(Diablo Canyon Nuclear Power	)	50-323 OL
Plant, Units 1 & 2)	)	

CERTIFICATE OF SERVICE

I hereby certify that I have this 5th day of April, 1979 served copies of the foregoing Joint Intervenors' ERRATA SHEET upon all of the parties listed below by depositing copies thereof in the U.S. Mails, first class, postage prepaid to the following parties of record:

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